

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ROBERT HURTE,

Petitioner,

v.

CIVIL ACTION NO. 5:08-cv-0893
(Criminal No. 5:06-cr-0124)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Robert Hurte, *pro se*, (Petitioner) brings this action for writ of habeas corpus pursuant to 28 U.S.C. § 2255. [Docket 168.] On July 3, 2008, this Court referred Petitioner's habeas application to the Honorable R. Clarke VanDervort Magistrate Judge for proposed findings of fact and a recommendation ("PF&R"). (Docket 170.) On June 30, 2008, Magistrate VanDervort submitted findings of fact and recommended that the Court dismiss Petitioner's Motion with prejudice because his application is without merit. (Docket 241.) The Court adopts Magistrate VanDervort's recommendation.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's

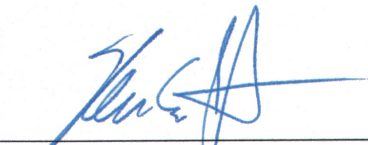
Order. 28 U.S.C. § 636(b)(1); *see also*, *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir.1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982). Objections in the instant case were due on July 18, 2011. To date, no objections have been filed.

Accordingly, the Court **hereby (1) DENIES** Petitioner’s application [Docket 168] with prejudice; and (2) **DIRECTS** the Clerk to remove this action from the Court’s active docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: September 6, 2011



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE